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OFFICE OF PETITIONS

In re Application of :
Jeffrey Browning et al. :
Application No. 09/767,370 : DECISION ON PETITION
Filed: January 23, 2001 : PURSUANT TO
Attorney Docket Number: BGN- : 37 C.F.R. § 1.181(A)
A054RCE2 :
Title: METHOD FOR THE HIGH :
LEVEL EXPRESSION OF ACTIVE :
LYMPHOTOXIN-BETA RECEPTOR :
IMMUNOGLOBULIN CHIMERIC :
PROTEINS AND THEIR PURIFICATION :

This is a decision on the petition filed on January 15, 2008,
pursuant to 37 C.F.R. § 1.181(a).

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. § 1.113 in a timely manner to the final Office action mailed June 11, 2007, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R. § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on September 12, 2007. A notice of abandonment was mailed on January 9, 2008.

With this petition, Petitioner has alleged that a three-month extension of time, a notice of appeal, and the fee that is associated with the filing of a notice of appeal was submitted to the Office on December 11, 2007. Petitioner has submitted, *inter alia*, a notice of appeal, a petition for a three-month extension of time, and a postcard receipt that indicates that both the notice of appeal and the petition for a three-month extension of time were received in the Office of Initial Patent Examination on December 11, 2007. As such, it is clear that a

response was timely received on that date, and subsequently misplaced in the Office.

Moreover, Office records indicate that both the fee that is associated with the filing of a notice of appeal and the fee that is associated with the filing of a petition for a three-month extension of time were received in the Office on December 11, 2007.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that this submission was timely received, and subsequently misplaced in the Office.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the present application can receive further processing in due course.

The Notice of Appeal filed on December 11, 2007, has been entered and made of record. Accordingly, **the two-month period for filing the Appeal Brief accompanied by the fee required by law runs from the mailing date of this decision.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225¹. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

¹ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.